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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/810,207

03/26/2004

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50525 7590 04/25/2008
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EXAMINER

CAO, PHUONG THAO

ART UNIT

PAPER NUMBER

2164

MAIL DATE

DELIVERY MODE

04/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. This action is in response to Amendment filed on 2/11/2008.
2. Claims 1, 3-6, 8 and 13 have been amended, claims 16 and 17 have been cancelled, and claims 2, 14 and 15 were previously cancelled. Currently, claims 1 and 3-13 are pending.

Response to Amendment

3. Regarding the response to the objection to claims 1, 6 and 8 (see Remarks, page 9), replacing the term "***adapted to***" by the term "***operable to***" is not effective to overcome the previous claim objections since Examiner objected to the use of both language "adapted to" and "operable to" in the claims. It is suggested to use the term "***configured to***" in place of "***adapted to***" or "***operable to***".

Response to Arguments

4. Applicant's arguments with respect to claims 1 and 3-13 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

5. Claims 1 and 3-13 are objected to because of reciting two terms which are directed to one element disclosed in the specification. Applicant recites both “inventory file” and “inventory file element” in the claims while only “inventory file” is disclosed and described in the specification. Although Examiner considers both recited “inventory file” and “inventory file element” as the same element, using both terms in the same claimed invention makes it unclear since it seems to recite two different elements. Appropriate correction is required.

6. Regarding claims 1, 6, 8 and 13, both language “**adapted to**” in (claim 8, line 3 and line 5) and “**operable to**” in (claim 1, lines 9, 13, 19, 21, 24, 27, 30 and 33), (claim 6, line 2), (claim 8, lines 13, 18), and (claim 13, line 15) are objected to as suggest a capability to perform the cited acts/functions but do not actually perform the cited acts/functions, which raises question regarding the metes and bounds of the claimed invention. Note that the above language can be replaced by “**configured to**” to overcome this objection.

7. Claims 1, 8 and 13 are objected to because of the following informalities:

Regarding claim 1, “*in to*” in the phrase “said scan element further loads necessary data in to the release database” (claim 1, line 17) should be “*into*”; and the phrase “under control *is* said scan element” (claim 1, line 19) should be “under control *of* said scan element”.

Regarding claim 8, “*in to*” in the phrase “said scan element further loads necessary data in to the release database” (claim 8, line 16-17) should be “*into*”; the phrase “under control *is* said scan element” (claim 8, line 18) should be “under control *of* said scan element”; and the phrase “*a* release storage area” (claim 8, line 9) should be “*the* release storage area”.

Regarding claim 13, “*in to*” in the phrase “said scan element further loads necessary data in to the release database” (claim 13, line 10-11) should be “*into*”; and the phrase “under control *is* said scan element” (claim 13, line 15) should be “under control *of* said scan element”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1 and 3-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 1, the newly added elements of “a build utility that creates derived objects from source subjects” (claim 1, line 5) and “said build area is optimized for time consideration wherein said release area is optimized for runtime consideration” (claim 1, line 35) are not disclosed or described in the specification.

Regarding claim 8, the newly added limitations of “a build utility that creates derived objects from source subjects” (claim 8, line 21) and “storing said received release information in an inventory file element” (claim 8, line 11) are not disclosed/described in the specification. The specification discloses storing build information scanned and received from build area in an inventory file but does not disclose storing release information received from the release storage area in the inventory file. Note that the recited “inventory file element” is interpreted as inventory file since the specification discloses only inventory file and there is no specific definition regarding "inventory file element" as recited.

Claims 3-7 and 9-12 are rejected as incorporating the deficiencies of rejected claims 1 and 8 upon which they depend respectively.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "said scan element" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

12. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

13. Claims 1 and 3-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 and 3-7 recite the newly added limitations such as "a build utility that creates derived objects from source subjects" (claim 1, line 5) and "said build area is optimized for time consideration wherein said release area is optimized for runtime consideration" (claim 1, line 35), which are not disclosed or described in the specification and thus directed to non-statutory subject matter.

Claims 8-12 recites the newly added limitations such as "a build utility that creates derived objects from source subjects" (claim 8, line 21) and "storing said received release information in an inventory file element" (claim 8, line 11), which are not disclosed or described in the specification and thus directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1 and 3-13 (effective filing date 03/26/2004) as best understood by Examiner are rejected under 35 U.S.C. 102(b) as being anticipated by Noble et al. (US Patent Number 5,845,128, issued on 12/1/1998).

As to claim 1, Noble et al. teaches:

“A system” (see Noble et al., Abstract) comprising:

“a release storage area comprising a release database for storing files and directories related to a current release of a released software product” (see Noble et al., Fig. 3 wherein the New Release Subdirectory can be interpreted as both a release storage area and a release database as recited; also see [column 4, lines 55-67]);

“a build area for storing files and directories associated with modifications of the current release; said build area comprises a build utility that creates derived objects from source subjects and copies files necessary to release said software product from said build area to said release storage area” (see Noble et al., [column 4, lines 25-55] wherein the old release subdirectory is interpreted as build area, the text file editor program and database tool set as disclosed is

interpreted as build utility; also see [column 6, lines 38-62] for copying customized file from old release subdirectory (build area) to new release subdirectory (release area) using custom file subdirectory as staging area);

“a software release information manager coupled to the release storage area and coupled to the build area and operable to identify differences between files and directories in said release storage area and files and directory in said build area” (see Noble et al., Fig. 1, [column 2, lines 5-15] and [column 6, lines 1-18 and 63-67] wherein Customization Copier Routine coupled to the old release subdirectory and the new release subdirectory to identify the difference (i.e., customized file) is interpreted as software release information manager as recited);

“said software release information manager selectively copies files required for entry into said release storage area” (see Noble et al., [column 5, lines 60-65] and [column 6, lines 38-62] for copying files into the new release subdirectory);

“a scan element operable to determine information regarding files and directories stored in said build area” (see Noble et al., [column 6, lines 5-10] for scanning the old release subdirectory (build area));

“said scan element scans said build area and generates an inventory file that categorizes files that comprise said release” (see Noble et al., [column 6, lines 1-10] and Fig. 4 wherein ship list file or old release file list can be interpreted as inventory file);

“said scan element further loads necessary data into the release database” (see Noble et al., Fig. 4, [column 5, lines 15-67] and [column 6, line 1-10] for loading information into ship list file by scanning and analyzing the files);

“an inventory file element for receiving and storing information in said build area” (see Noble et al., [column 6, lines 1-2] wherein generating the old release file list includes receiving and storing information regarding files in the old release subdirectory (build area));

“said inventory file element is operable under control of said scan element to categorized all files comprising said release area” (see Noble et al., Fig. 4 and [column 6, line 1-5] for generating ship list file (inventory file element) based on scanning (scan element) wherein the ship list file categorized all files comprising the new release based on its parameters (e.g., file name));

“said software release information manager is operable to control the operation of said inventory file element and said scan element to effect the transfer of said information from said build area to said release storage area” (see Noble et al., [column 6, lines 1-60] wherein based on the lists (inventory file element) generated by scanning (scan element) the old release subdirectory (build area) and new release subdirectory (release storage area), the customer routine identifies and transfers the customized files or customization data from the old release subdirectory to the new release subdirectory);

“said software release information manager is operable to compare the build information in the inventory file element with release information regarding a current release of files and directories in the release storage area” (see Noble et al., [column 7, lines 1-50] for comparing information in the old release file list (build information) and information in the ship list file (release information));

“said software release information manager is operable to install modified files and directories into the release storage area to create a new release of files and directories in the

release storage area defining a release database” (see Noble et al., [column 5, lines 10-60] and Fig. 5 for installed customized files (i.e., modified files) in the new release subdirectory; also see [column 5, lines 1-5] for structure of the new release subdirectory);

“said software release information manager is operable to update information in the release database from the build information in the inventory file in response to the step of installing modified files and directories” (see Noble et al., [column 6, lines 53-62] wherein the new release subdirectory (release database) is updated when customized file is copied to it);

“said software release information manager is operable to identify the differences between the build storage area and the release storage area” (see Noble et al., [column 4, lines 25-62] and [column 6, lines 10-18] for identifying customized files which represent a difference between the old release subdirectory and the new release subdirectory; also see [column 6, lines 63-67]); and

“said build area is optimized for time consideration wherein said release area is optimized for runtime consideration” (see Noble et al., [column 1, lines 20-67] and [column 2, lines 1-15]).

As to claim 3, this claim is rejected based on arguments given above for rejected claim 1 and is similarly rejected including the following:

Noble et al. teaches:

“said release database coupled to the scan element and said inventory file element for storing information regarding files and directories located in the build area” (see Noble et al., [column 6, lines 1-10] wherein the old release file list generated from scanning the old release subdirectory (build area) for storing information (i.e., files or directories (see [column 5, lines 1-

5] for structure of a release subdirectory)) of the scanned subdirectory is interpreted as release database as recited).

As to claim 4, this claim is rejected based on arguments given above for rejected claim 1 and is similarly rejected including the following:

Noble et al. teaches:

“a verify element coupled to said inventory file element to compare information representing files and directories in the release storage area with information representing files and directories in the build area to identify differences between the compared information” (see Noble et al., [column 7, lines 1-50] for comparing information representing files and directories (e.g., file revision numbers, file size, file checksum) in the old release subdirectory (build area) with the new release subdirectory (release area) to identify any customization which represents a difference between the old release and new release); and

“said verify element allows a user to verify a software release and provide facility to compare different releases of the same product; said install module uses information and said inventory data file to verify every file in said storage release area” (see Noble et al., [column 6, lines 30-33 and 63-67] and [column 7, lines 30-45] for verifying files based on a file size or check sum and comparing between two releases of the same product).

As to claim 5, this claim is rejected based on arguments given above for rejected claim 1 and is similarly rejected including the following:

Noble et al. teaches:

“an install element coupled to said inventory file element to copy files and directories from the build area to the release storage area; said install element copies specified files from said build area to said release storage area and further create a directory structure in said storage area specifying file and directory permissions as defined by said inventory file” (see Noble et al., [column 6, lines 35-60] for copying customized files from the old release subdirectory to the new release subdirectory; see [column 5, lines 1-5] for structure of a release subdirectory).

As to claim 6, this claim is rejected based on arguments given above for rejected claim 1 and is similarly rejected including the following:

Noble et al. teaches:

“wherein the build area is operable to be used by a developer to modify or create files and/or directories for the software product” (see Noble et al., [column 4, lines 40-55]).

As to claim 7, this claim is rejected based on arguments given above for rejected claim 1 and is similarly rejected including the following:

Noble et al. teaches:

“wherein the identified differences may include one or more of: file existence, file naming, file ownership information, file access control information, file contents, directory existence, directory naming, directory ownership information, and directory access control information” (see Noble et al., [column 6, lines 63-67] for content differences).

As to claim 8, Noble et al. teaches:

“A method for software release management of a software product” (see Noble et al., Abstract), the method comprising the steps of:

“identifying a build area adapted to have development files in a hierarchically structured development directory” (see Noble et al., Fig. 3 wherein the old release subdirectory is interpreted as build area; also see [column 5, lines 1-5] for hierarchical structure of a release subdirectory);

“receiving build information regarding development files and directories adapted to be stored in the build area” (see Noble et al., [column 6, lines 5-10] for receiving information from scanning the old release subdirectory to generate the old release file list);

“identifying a release storage area having release files in a hierarchically structured release directory” (see Noble et al., Fig. 3 wherein the new release subdirectory is interpreted as release area; also see [column 5, lines 1-5] for hierarchical structure of a release subdirectory);

“receiving information regarding the release files and directories in a release storage” (see Noble et al., [column 6, lines 1-5] for receiving information from scanning the old release subdirectory to generate the ship list file; also see Fig. 4);

“storing said receiving build information and said receiving release information in an inventory file element” (see Noble et al., [column 6, lines 1-10] wherein ship list file and old release file list is interpreted as inventory file element as recited);

“a scan element operable to determine information regarding files and directories stored in said build area” (see Noble et al., [column 6, lines 5-10] for scanning the old release subdirectory (build area));

“said scan element scans said build area and generates an inventory file that categorizes files that comprise said release” (see Noble et al., [column 6, lines 1-10] and Fig. 4 wherein ship list file or old release file list can be interpreted as inventory file);

“said scan element further loads necessary data into the release database” (see Noble et al., Fig. 4, [column 5, lines 15-67] and [column 6, line 1-10] for loading information into ship list file by scanning and analyzing the files);

“said inventory file element is operable under control of said scan element to categorized all files comprising said release area” (see Noble et al., Fig. 4 and [column 6, line 1-5] for generating ship list file (inventory file element) based on scanning (scan element) wherein the ship list file categorized all files comprising the new release based on its parameters (e.g., file name));

“a build area for storing files and directories associated with modifications of the current release” (see Noble et al., [column 4, lines 25-55] wherein the old release subdirectory is interpreted as build area);

"said build area comprises a build utility that creates derived objects from source subjects and copies files necessary to release said software product from said build area to said release storage area” (see Noble et al., [column 4, lines 25-55] wherein the old release subdirectory is interpreted as build area, the text file editor program and database tool set as disclosed is interpreted as build utility; also see [column 6, lines 38-62] for copying customized file from old release subdirectory (build area) to new release subdirectory (release area) using custom file subdirectory as staging area);

“reporting to a user regarding differences between the release information and the build information wherein the differences include one or more of: file existence, file naming, file ownership information, file access control information, file contents, directory existence, directory naming, directory ownership information, and directory access control information” (see Noble et al., [column 6, lines 30-40 and 63-67] for reporting to a user a list of customized files which represents content differences).

As to claim 9, this claim is rejected based on arguments given above for rejected claim 8 and is similarly rejected including the following:

Noble et al. teaches:

“storing the received build information in a first database” (see Noble et al., [column 6, lines 5-10] wherein the old release file list storing information of the old release subdirectory (build area) is interpreted as first database); and

“storing the received release information in a second database” (see Noble et al., [column 6, lines 5-10] wherein the ship list file storing information of the new release subdirectory (release area) is interpreted as second database),

“wherein the step of reporting further comprising accessing the first and second databases to compare the build information stored therein and the release information stored therein to identify the differences there between” (see Noble et al., [column 7, lines 1-50] for accessing information from the ship list file and the old release file list to identify the customized file (i.e., difference)).

As to claim 10, this claim is rejected based on arguments given above for rejected claim 8 and is similarly rejected including the following:

Noble et al. teaches:

“installing a copy of the release files and directories in a destination storage area to install a current release of the software product” (see Noble et al., [column 4, lines 10-15]).

As to claim 11, this claim is rejected based on arguments given above for rejected claim 8 and is similarly rejected including the following:

Noble et al. teaches:

“copying build files from the build area via said inventory file element to the release storage area to generate a new release” (see Noble et al., [column 6, lines 10-60] for copying customized files from old release subdirectory (build area) to new release subdirectory (release area) via the custom file subdirectory)

As to claim 12, this claim is rejected based on arguments given above for rejected claim 11 and is similarly rejected including the following:

Noble et al. teaches:

“installing a copy of the release files and directories in a destination area to install the new release of the software product” (see Noble et al., [column 4, lines 10-15]).

As to claim 13, Noble et al. teaches:

“A method for software release management” (see Noble et al., Abstract) comprising the steps of:

“identifying a build area having development files in a hierarchically structured development directory” (see Noble et al., Fig. 3 wherein the old release subdirectory is interpreted as build area; also see [column 5, lines 1-5] for hierarchical structure of a release subdirectory);

“scanning said build area containing modified files and directories for a software product” (see Noble et al., [column 6, lines 5-10] and [column 4, lines 25-35] for scanning the old release subdirectory which contained modified files (i.e., customized files) of a software product);

“said scanning determines information regarding files and directories stored in said build area” (see Noble et al., [column 6, lines 5-10] for scanning the old release subdirectory (build area));

“said scan element scans said build area and generates an inventory file that categorizes files that comprise said release” (see Noble et al., [column 6, lines 1-10] and Fig. 4 wherein ship list file or old release file list can be interpreted as inventory file);

“said scanning further loads necessary data into the release database” (see Noble et al., Fig. 4, [column 5, lines 15-67] and [column 6, line 1-10] for loading information into ship list file by scanning and analyzing the files);

“generating an inventory file from build information derived from the step of scanning and regarding modified files and directories in the build area” (see Noble et al., [column 6, lines

1-10] and [column 4, lines 25-35] for generating old release file list from scanning the old release subdirectory which includes modified files (i.e., customized files);

“operating an inventory file element for receiving and storing information in said build area” (see Noble et al., [column 6, lines 1-10] wherein ship list file and/or old release file list receiving and storing scanned information is interpreted as inventory file element);

“said inventory file element is operable under control of said scan element to categorized all files comprising said release area” (see Noble et al., Fig. 4 and [column 6, line 1-5] for generating ship list file (inventory file element) based on scanning (scan element) wherein the ship list file categorized all files comprising the new release based on its parameters (e.g., file name));

“storing said scanned information in said build area into said inventory file element” (see Noble et al., [column 6, lines 1-10] for storing scanned information into files generated in scanning process as disclosed);

“comparing the build information in the inventory file element with release information regarding a current release of files and directories in the release storage area” (see Noble et al., [column 7, lines 1-50] for comparing information in the old release file list (build information) and information in the ship list file (release information));

“installing modified files and directories into the release storage area to create a new release of files and directories in the release storage area defining a release database” (see Noble et al., [column 5, lines 10-60] and Fig. 5 for installed customized files (i.e., modified files) in the new release subdirectory; also see [column 5, lines 1-5] for structure of the new release subdirectory);

“updating information in the release database from the build information in the inventory file in response to the step of installing modified files and directories” (see Noble et al., [column 6, lines 53-62] wherein the new release subdirectory (release database) is updated when customized file is copied to it);

“identifying the differences between the build storage area and the release storage area” (see Noble et al., [column 4, lines 25-62] and [column 6, lines 10-18] for identifying customized files which represent a difference between the old release subdirectory and the new release subdirectory; also see [column 6, lines 63-67]); and

“reporting to a user regarding differences between the release information and the build information wherein the differences include one or more of: file existence, file naming, file ownership information, file access control information, file contents, directory existence, directory naming, directory ownership information, and directory access control information” (see Noble et al., [column 6, lines 30-40 and 63-67] for reporting to a user a list of customized files which represents content differences).

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong-Thao Cao whose telephone number is (571)272-2735. The examiner can normally be reached on 8:30 AM - 5:00 PM (Mon - Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Phuong-Thao Cao, Examiner
Art Unit 2164
April 24, 2008

/Charles Rones/

Supervisory Patent Examiner, Art Unit 2164